

1 IN THE UNITED STATES BANKRUPTCY COURT
2 FOR THE WESTERN DISTRICT OF MISSOURI
3 WESTERN DIVISION

4 In re:

5 ROSA NICHOLE RENEE JAMES, Case No. 17-41965-BTF7
6 Debtor.

7 DANIEL J. CASAMATTA,
8 ACTING UNITED STATES TRUSTEE,
9 Plaintiff,

10 vs. Adv. Case No. 18-4168-CAN

11 CASTLE LAW OFFICE OF
12 KANSAS CITY, P.C.,

13 Defendant,

14 and

15 JASON C. AMERINE,
16 Defendant.

17 DEPOSITION OF JASON AMERINE, a Witness,
18 taken on behalf of the Plaintiff, pursuant to
19 Notice, on September 5, 2019, at the Law Offices of
20 Brown & James, PC, Suite 2100, 2345 Grand Boulevard,
21 Kansas City, Missouri 64108, before

22 CHERIE L. HOUSE

23 Registered Professional Reporter, Certified Court
24 Reporter of the States of Kansas and Missouri.
25

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1	TABLE OF CONTENTS		
2			Page
3			
4	Stipulation		12
5	JASON AMERINE		
6	Examination by Mr. Miller		12
7	Certificate of Reporter		288
8	Errata Sheet		290
9	Signature of Witness		291
10			
11	EXHIBITS		
12	No.	Description	Page
13	1	BK Billing - Accounts Receivable	24
14		Assignment Agreement - 5/24/17	
15		Bates BKB 3 through 9 (8 pages)	
16	2	BK Billing - Amendment to Accounts	35
17		Receivable Assignment Agreement -	
18		Bates BKB 1 and 2 (2 pages)	
19	3	BK Billing Holdback Reconciliation -	38
20		Bates CLOKC 3206 through 3208	
21		(3 pages)	
22	4	E-mails Between Wattenbarger and	49
23		Amerine - Bates Castle UST 161 and 162	
24		(2 pages)	
25	5	Best Case Bankruptcy Case Notes for	66

1		Rosa James (1 page)	
2	6	Attorney-Client Retainer Agreement	81
3		Between Castle Law and Rosa James -	
4		Bates CLOKC 313 (1 page)	
5	7	Castle Law Statement CLOKC 315	85
6		(1 page)	
7	8	Attorney-Client Retainer Agreement	88
8		Between Castle Law and Rosa James -	
9		Bates CLOKS 309 and 310 (2 pages)	
10	9	Rights and Responsibilities Agreement	98
11		Between Chapter 7 Debtors and Their	
12		Attorneys - Bates BKB 378 through 381	
13		(4 pages)	
14	10	Recurring Payment Authorization and	111
15		Consent Form - Bates CLOKC 314	
16		(1 page)	
17	11	BK Billing Payment Receipt for Rosa	114
18		James - Bates BKB 51 and 2 (2 pages)	
19	12	Declaration Re: Electronic Filing for	117
20		Rosa Nichole Renee James -	
21		Bates BKB 382 (1 page)	
22	13	Disclosure of Compensation of Attorney	120
23		for Debtors for Rosa Nichole Renee	
24		James - Bates CLOKC 323 (1 page)	
25	14	Contract for Postpetition Chapter 7	132

1		Legal Services for Rosa James - Bates	
2		CLOKC 311 and 312 (2 pages)	
3	15	Invoice Details - Bates BKB 64	139
4		(1 page)	
5	16	Disclosure of Compensation of Attorney	144
6		for Debtors - Amended for Rose Nichole	
7		Renee James - Bates BKB 383 (1 page)	
8	17	Official Form 107 - Statement of	154
9		Financial Affairs for Individuals	
10		Filing for Bankruptcy for Rosa Nichole	
11		Renee James - Bates BKB 330 through	
12		336 (7 pages)	
13	18	Official Form 106J for Rosa Nichole	157
14		Renee James (2 pages)	
15	19	Verification by Debtors for Rosa	158
16		Nichole Renee James (1 page)	
17	20	Official Form 106J for	160
18		Rosa Nichole Renee James -	
19		Amended (2 pages)	
20	21	Best Case Bankruptcy Case Notes for	162
21		Jeffrey Hannah - Bates CLOKC 836	
22		(1 page)	
23	22	Attorney-Client Retainer Agreement for	169
24		Jeffrey Hannah - Bates UST 37 and 38	
25		(2 pages)	

1	23	Rights and Responsibilities Agreement	171
2		Between Chapter 7 Debtors and Their	
3		Attorneys for Jeffrey Hannah -	
4		Bates CLOKC 924 through 927 (4 pages)	
5	24	Signature Page of Mr. Amerine -	172
6		Bates CLOKC 883 (1 page)	
7	25	Declaration Re: Electronic Filing for	177
8		Jeffrey Scott Hannah - Bates CLOKC 928	
9		(1 page)	
10	26	Disclosure of Compensation of Attorney	180
11		for Debtors for Jeffrey Scott Hannah -	
12		Bates CLOKC 884 (1 page)	
13	27	Disclosure of Compensation of Attorney	181
14		for Debtors - Amended for Jeffrey	
15		Scott Hannah - Bates CLOKC 839	
16		(1 page)	
17	28	Contract for Postpetition Chapter 7	184
18		Legal Services for Jeffrey Hannah -	
19		Bates CLOKC 834 and 835 (2 pages)	
20	29	Recurring Payment Authorization and	189
21		Consent Form for Jeff Hannah -	
22		Bates CLOKC 833 (1 page)	
23	30	BK Billing Payment Receipt for Jeffrey	191
24		Hannah - Bates BKB 14 (1 page)	
25	31	Invoice Details - BKB 25 (1 page)	192

1	32	Official Form 106Dec - Declaration	194
2		About an Individual Debtor's Schedules	
3		for Jeffrey Scott Hannah -	
4		Bates CLOKC 911 - (1 page)	
5	33	Official Form 106J - Schedule J for	195
6		Jeffrey Scott Hannah - Bates CLOKC 909	
7		and 910 (2 pages)	
8	34	Verification by Debtors for Jeffrey	196
9		Scott Hannah - Bates CLOKC 847	
10		(1 page)	
11	35	Best Case Bankruptcy Case Notes for	200
12		Antoinette Grant - Bates CLOKC 1291	
13		(1 page)	
14	36	Attorney-Client Retainer Agreement for	203
15		Antoinette Grant - Bates CLOKC 1289	
16		(1 page)	
17	37	Castle Law Statement for Antoinette	207
18		Grant - Bates 1287 (1 page)	
19	38	Attorney-Client Retainer Agreement for	208
20		Antoinette Grant (2 pages)	
21	39	Recurring Payment Authorization and	210
22		Consent Form for Antoinette Grant	
23		(1 page)	
24	40	Signature Page of Mr. Amerine -	212
25		Bates CLOKC 1343 (1 page)	

1	41	Disclosure of Compensation of Attorney	215
2		for Debtors for Antoinette Michelle	
3		Grant - Bates CLOKC 1344 (1 page)	
4	42	Contract for Postpetition Chapter 7	218
5		Legal Services for Antoinette Grant	
6		(1 page)	
7	43	BK Billing Payment Receipt for	220
8		Antoinette Grant - Bates BKB 26 and 27	
9		(2 pages)	
10	44	Invoice Details - Bates BKB 38	221
11		(1 page)	
12	45	Disclosure of Compensation of Attorney	222
13		for Debtors - Amended (1 page)	
14	46	Official Form 107 - Statement of	224
15		Financial Affairs for Individuals	
16		Filing for Bankruptcy for Antoinette	
17		Michelle Grant - Bates CLOKC 1378	
18		through 1383 (6 pages)	
19	47	Official Form 106J - Schedule J for	226
20		Antoinette Michelle Grant -	
21		Bates CLOKC 1375 and 1376 (2 pages)	
22	48	Verification by Debtors for Antoinette	227
23		Michelle Grant - Bates CLOKC 1254	
24		(1 page)	
25	49	Best Case Bankruptcy Case Notes for	228

1		Huzaifah Babiker - Bates CLOKC 1331	
2		(1 page)	
3	50	Attorney-Client Retainer Agreement for	230
4		Huzaifah Babiker - Bates CLOKC 1886	
5		and 1887 (2 pages)	
6	51	Castle Law Office Statement for	233
7		Huzaifah Babiker - Bates CLOKC 1830	
8		(1 page)	
9	52	Attorney-Client Retainer Agreement for	233
10		Huzaifah Babiker - Bates CLOKC 1888	
11		and 1889 (2 pages)	
12	53	Rights and Responsibilities Agreement	235
13		Between Chapter 7 Debtors and Their	
14		Attorneys for Huzaifah Tarik Babiker -	
15		Bates CLOKC 1821 through 1824	
16		(4 pages)	
17	54	Declaration Re: Electronic Filing for	236
18		Huzaifah Tarik Babiker - Bates CLOKC	
19		1771 (1 page)	
20	55	Disclosure of Compensation of Attorney	237
21		for Debtors for Huzaifah Tarik	
22		Babiker - Bates 1779 (1 page)	
23	56	Contract for Postpetition Chapter 7	241
24		Legal Services for Huzaifah Babiker -	
25		Bates CLOKC 1890 and 1891 (2 pages)	

1	57	Recurring Payment Authorization and	243
2		Consent Form for Huzaifah Babiker -	
3		Bates CLOKC 1892 (1 page)	
4	58	BK Billing Payment Receipt for	244
5		Huzaifah Babiker - Bates BKB 39	
6		(1 page)	
7	59	Invoice Details for Huzaifah Babiker -	245
8		Bates BKB 50 (1 page)	
9	60	Official Form 106J - Schedule J for	248
10		Huzaifah Tarik Babiker -	
11		Bates CLOKC 1802 and 1803 (2 pages)	
12	61	Official Form 107 - Statement of	251
13		Financial Affairs for Individuals	
14		Filing for Bankruptcy for Huzaifah	
15		Tarik Babiker - Bates CLOKC 1805	
16		through 1810 (6 pages)	
17	62	Verification by Debtors for Huzaifah	252
18		Tarik Babiker - Bates CLOKC 1893	
19		(1 page)	
20	63	Disclosure of Compensation of Attorney	253
21		for Debtors - Amended -	
22		Bates CLOKC 1825 (1 page)	
23	64	E-mails - Bates CLOKC 266 and 267	255
24		(2 pages)	
25	65	E-mails - Bates CLOKC 237 (1 page)	261

1	66	E-mails - Bates CLOKC 177 and 178	264
2		(1 page)	
3	67	E-mails - Bates CLOKC 145 (1 page)	267
4	68	E-mails - Bates CLOKC 140 (1 page)	268
5	69	E-mails - Bates CLOKC 110 (1 page)	271
6	70	E-mails - Bates CLOKC 91 (1 page)	273
7	71	Disclosure of Compensation of Attorney	274
8		for Debtors for Brian Nelson Laverne	
9		Wilson - Bates Castle UST 1658	
10		(1 page)	
11	72	Bankruptcy Petition for Chad Michael	278
12		Gibson and Leslee Belle Gibson	
13		(5 pages)	
14	73	Disclosure of Compensation of Attorney	279
15		Debtors for Chad Michael Gibson and	
16		Leslee Belle Gibson (1 page)	
17	74	Disclosure of Compensation of Attorney	281
18		Debtors for Mimi Genee Laws (1 page)	
19			
20		Reporter's Notes: The exhibits were returned to	
21		plaintiff's counsel.	
22			
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24			
25			

1 STIPULATION

2 IT IS STIPULATED AND AGREED by and between
3 the respective parties hereto that said deposition
4 shall be signed by the witness before the time of
5 trial of this case.

6 P R O C E E D I N G S

7 (The deposition commenced at 9:20 a.m.)

8 JASON AMERINE,

9 a witness, being first duly sworn, testified under
10 oath as follows:

11 EXAMINATION

12 BY MR. MILLER:

13 Q. Mr. Amerine, you and I know each other
14 so -- this is the deposition of Mr. Amerine, the
15 defendant, in the adversary case -- or actually four
16 adversary cases which have been consolidated for
17 pretrial proceedings under the caption Casamatta
18 v. Castle Law Office of Kansas City and Jason
19 Amerine, adversary; Case No. 18-4168.

20 Let me give you some general instructions.
21 I think you've heard them. You've been present for
22 all of the depositions, but I just want to make sure
23 we are all clear on the record. I don't want you to
24 speculate to anything. If you don't know the answer
25 to my question, tell me you don't know. It's okay

1 **Q. And how -- when did you first become**
2 **familiar with BK Billing?**

3 A. Sometime in 2017.

4 **Q. Okay. How did you become familiar with**
5 **them?**

6 A. Through other debtors law firms throughout
7 the country.

8 **Q. Anyone in the Kansas City area that you**
9 **talked to about BK Billing at that time?**

10 A. No.

11 **Q. Did you at some point make a decision to**
12 **start utilizing BK Billing services?**

13 A. Yes.

14 **Q. Did you have any conversations with**
15 **BK Billing before you signed up or signed any**
16 **paperwork with BK Billing?**

17 A. I'm sure I did.

18 **Q. Do you know who you would have talked to**
19 **at BK Billing?**

20 A. It would have been John Magueny (phonetic)
21 or David Stidham.

22 **Q. Do you recall any of those conversations**
23 **before you signed up with BK Billing?**

24 A. It would have just been the general
25 procedures on how to handle those types of cases and

1 what kind of feedback they were receiving at other
2 venues.

3 **Q. Approximately, how many bankruptcy cases**
4 **have you filed as an attorney?**

5 A. I have no idea.

6 **Q. I assume that number would be in the**
7 **thousands?**

8 A. Probably.

9 **Q. Prior to signing up with BK Billing, had**
10 **you offered or utilized a zero-down Chapter 7**
11 **bankruptcy filing method?**

12 A. I mean there's pro bono cases that I do
13 frequently, but not just like these, no.

14 **Q. Had you heard the term bifurcation prior**
15 **to filing with BK Billing?**

16 A. Yes.

17 **Q. What was your experience or knowledge with**
18 **bifurcation prior to BK Billing?**

19 A. Can you ask the question again?

20 **Q. Sure. Did you have any experience in**
21 **bifurcating fees prior to working with BK Billing?**

22 A. I don't recall.

23 **Q. Do you recall if you've ever bifurcated a**
24 **case prior to BK Billing?**

25 A. I don't remember.

1 **Q. Is it possible that you had bifurcated a**
2 **case?**

3 A. Sure.

4 **Q. Do you recall drafting any fee agreements**
5 **that provided for the bifurcation of cases?**

6 A. No.

7 (J. Amerine Exhibit No. 1 was marked for
8 identification.)

9 **Q. (By Mr. Miller) I'll hand you a document**
10 **I've marked as Exhibit 1. Have you seen this**
11 **document before?**

12 A. Yes.

13 **Q. And for the record, I'll note that this is**
14 **a document entitled "BK Billing Accounts Receivable**
15 **Assignment Agreement." It's Bates stamped as a**
16 **production for BK Billing page numbers 3 through 9.**
17 **Could you tell me what your understanding of this**
18 **document is?**

19 A. This was an agreement for Castle Law to
20 sell accounts receivable to BK Billing.

21 **Q. Turning to the last page of this form, it**
22 **looks like this form was electronically submitted.**
23 **Do you see that?**

24 A. It looks like it.

25 **Q. Did you personally submit this paperwork**

1 to BK Billing?

2 A. Yes.

3 Q. Did you read this document before you
4 submitted it to BK Billing?

5 A. Yes.

6 Q. Prior to entering into this agreement with
7 BK Billing, have you ever factored fees with any
8 other entity?

9 A. No.

10 Q. To the best of your knowledge, did Castle
11 Law ever factor fees prior to entering into this
12 agreement?

13 MR. KOEHLER: Objection, form, assumes
14 facts not in evidence.

15 Go ahead and answer.

16 A. Not that I'm aware of.

17 Q. (By Mr. Miller) What was your
18 understanding of the purpose of this agreement?

19 A. I think I answered that. Rephrase.

20 Q. Well, I asked you if you have seen this
21 document and what you understood this document to
22 be. What was your understanding of what the purpose
23 of this document is?

24 MR. KOEHLER: I'll object to the extent
25 that it calls for a legal conclusion. The document

1 speaks for itself.

2 Go ahead and answer.

3 A. You'll have to ask me one more time.

4 **Q. (By Mr. Miller) What were you trying to**
5 **accomplish by entering into this document?**

6 MR. KOEHLER: Same objections.

7 Go ahead.

8 A. To sell accounts receivable to a third
9 party.

10 **Q. (By Mr. Miller) That third party being**
11 **BK Billing?**

12 A. Correct.

13 **Q. Let's look at some of the provisions of**
14 **this. If you turn to page -- the very first page of**
15 **this document, which is page 3 at the bottom,**
16 **there's a purchase price. Do you see that?**

17 A. Yes.

18 **Q. There's a clause. What was your**
19 **understanding of how BK Billing was going to**
20 **purchase your accounts?**

21 A. They would purchase the receivables at a
22 discounted rate.

23 **Q. What was the discounted rate that they**
24 **would purchase receivables under this agreement?**

25 A. Well, I think it depended on the success

1 of the contract that was being sold.

2 Q. Well, were you -- maybe we need to take a
3 step back from this. What was your understanding of
4 the process of how it would work to factor your
5 accounts with BK Billing?

6 A. We would get a percentage of the contract
7 initially, and based on the performance of the
8 contract, there would be an additional amount.

9 Q. So at the time that you transferred the
10 account to BK Billing, Castle Law would receive an
11 advance; is that correct?

12 A. Correct.

13 Q. Okay. And then depending on whether or
14 not the client paid BK Billing, there would be
15 additional amounts transferred to Castle Law; is
16 that correct?

17 A. Correct.

18 Q. Would there ever be a time, based on your
19 understanding of this agreement, when BK Billing
20 would have to return any of the monies to you --
21 or -- I'm sorry -- Castle Law would have to return
22 any monies to BK Billing that had been advanced?

23 A. I don't recall that happening.

24 Q. Well, I think we're mixing time periods.
25 At the time that you entered into this agreement,

1 was it your understanding that there would ever be a
2 time when Castle Law might have to either repurchase
3 or have to give back part of the advance to
4 BK Billing?

5 A. No.

6 Q. What was the percentage of the fee that
7 would be advanced to BK Billing -- or from
8 BK Billing to Castle Law at the time that the
9 agreement of contract was factored?

10 A. I believe it was 60 percent.

11 Q. And then I've deposed BK Billing, and they
12 referred something called a holdback. Are you
13 familiar with that?

14 A. Yes.

15 Q. What was your understanding of what the
16 holdback is at BK Billing?

17 A. The holdback was to protect BK Billing due
18 to nonperformance, not underperforming contracts.

19 Q. So if a client didn't pay BK Billing, then
20 those -- the amount of the holdback would be
21 credited to BK Billing; is that correct?

22 A. Well, I wouldn't get the remaining portion
23 of the contract; so that was the -- the consequence
24 was on me for the contract not performing.

25 Q. Was it your understanding if clients

1 authorization, and I think proof of the case number.

2 Q. Would you ever send the clients' financial
3 information to BK Billing?

4 A. I think -- yeah, we would send pay stubs.

5 Q. Did you tell the clients that you were
6 sending their pay stubs to BK Billing?

7 A. Yes.

8 Q. Would you ever send any of their bank
9 records to BK Billing?

10 A. That may have happened if they didn't have
11 a job.

12 Q. Okay. Did you receive any written
13 authorization from a client to send their bank
14 statements to BK Billing?

15 A. Yes.

16 Q. And would you keep that written
17 authorization in your file?

18 A. Yes.

19 Q. Was that on the same form or separate form
20 from the authorization to collect the payments?

21 A. I believe it was the same form.

22 Q. Did you understand whether or not -- let
23 me strike that.

24 Did you have any understanding if
25 BK Billing performed any type of underwriting of the

1 individual clients to determine if they were
2 creditworthy?

3 A. Yes.

4 Q. What was your understanding of the
5 underwriting process of BK Billing?

6 A. I don't recall what the exact threshold
7 was at the time, but there was a minimum amount that
8 had to be -- there's a minimum salary to qualify at
9 that time.

10 Q. Okay. When you say "at that time," we're
11 talking about when you first entered into this
12 agreement in 2017?

13 A. There was always an underwriting
14 threshold, but it changed over time; so I don't know
15 what it was at this time.

16 Q. Okay. But it was your understanding
17 that -- and I think you've answered, yes, that --
18 that there was some degree of qualification going on
19 at BK Billing; is that correct?

20 A. Yes.

21 Q. Do you have any recollection if any of
22 your clients were rejected by BK Billing?

23 A. I believe we had a couple that were
24 initially rejected. We had to provide additional
25 documents, and then it was approved.

1 **Q. There's a second paragraph -- or a second**
2 **sentence there. It says "Provided, however,**
3 **BK Billing shall notify the firm prior to making any**
4 **such negative report, and the firm shall have the**
5 **right to buy back the same at the buyback purchase**
6 **price within 10 days thereafter." Do you see that?**

7 **A. Yes.**

8 **Q. Did you ever receive any notifications**
9 **from BK Billing that they were intending to**
10 **negatively report your clients?**

11 **A. No.**

12 **Q. Did you ever buy back any accounts from**
13 **BK Billing?**

14 **A. No.**

15 **Q. Prior to entering into this agreement, did**
16 **you do any due diligence to determine whether or not**
17 **entering into this agreement was ethically**
18 **permissible?**

19 **A. I looked to see what was going on in other**
20 **jurisdictions. I mean there was nothing on point in**
21 **Missouri or Kansas as to whether or not this was**
22 **ethical or unethical, and all I could do was look to**
23 **see what was going on other places and --**

24 **Q. Did you retain counsel to review this**
25 **agreement?**

1 **like it was electronically submitted to BK Billing;**
2 **is that correct?**

3 A. It appears to be.

4 Q. Do you recall if you personally filled
5 **this information out?**

6 A. I would have been the one that did this,
7 yes.

8 Q. Okay. Do you have any reason to doubt
9 **that you submitted this to BK Billing on or about**
10 **June 26 of 2017?**

11 A. No.

12 Q. Do you have any reason to doubt that this
13 **is an authenticated copy of the amendment to the**
14 **accounts receivable assignment agreement?**

15 A. No.

16 Q. What do you believe is the purpose of this
17 **particular amendment?**

18 A. I believe this changed the percentage that
19 was advanced and the holdback terms.

20 Q. And what is your understanding of the
21 **changes to the hold -- to the percentage payment?**

22 A. I believe the percentage increased from
23 what the previous was, but the holdback was a little
24 more stringent on the debtor's attorney. I'm not
25 100 percent certain.

1 **Q. Did you have any discussions with**
2 **BK Billing that you recall prior to authenticating**
3 **this amendment?**

4 A. No.

5 **Q. Would you have received some sort of**
6 **memorandum or other document from BK Billing**
7 **explaining these changes?**

8 A. There may have been an e-mail stating they
9 were changing the percentages, but I don't recall.

10 **Q. But under this agreement, as I understand**
11 **it, 60 percent of the total value of the agreement**
12 **would be disbursed to you at the time that you**
13 **submitted the documents to BK Billing and they were**
14 **approved; is that correct?**

15 A. Correct.

16 **Q. And then 15 percent of the total amount or**
17 **value of the contract would then be held back; is**
18 **that correct?**

19 A. Correct.

20 **Q. Did you ever receive any payments from the**
21 **holdback to you?**

22 A. No.

23 **Q. So you've never received any of the**
24 **15 percent of the escrowed amounts paid to Castle**
25 **Law?**

1 A. No.

2 **Q. Is that because the holdback was always a**
3 **negative balance?**

4 A. Correct.

5 (J. Amerine Exhibit No. 3 was marked for
6 identification.)

7 **Q. (By Mr. Miller) I'm handing you a**
8 **document that I just marked as Exhibit 3 for your**
9 **deposition. It's Bates stamped Castle Law**
10 **Production 3206 through 3208. It's entitled**
11 **"BK Billing Holdback Reconciliation." Do you see**
12 **that?**

13 A. Yes.

14 **Q. Are you familiar with this document?**

15 A. Yes.

16 **Q. Did you provide this document to**
17 **Mr. Koehler?**

18 A. Yes.

19 **Q. Could you explain to me generally what**
20 **this document is intended to represent?**

21 A. It represents the payments on each
22 account, and I believe the defaults per each
23 account. And I'm not exactly sure what else is on
24 here, but that's the gist of it is what's been paid
25 and what's been defaulted.

1 A. Yes.

2 Q. To the best of your knowledge, does this
3 document have clients from both the Western District
4 of Missouri and the District of Kansas on it?

5 A. Yes.

6 Q. You don't have a separate list at all
7 maintained by Castle Law, just the cases that were
8 filed in the Western District of Missouri?

9 A. Not that I'm aware of.

10 Q. Okay. Let's look at some things on this
11 document, please. At the very top of the document
12 it says "Law Firm: Castle Law of Kansas City"; is
13 that correct?

14 A. Yes.

15 Q. And then it says this document is "As of
16 March 31 of 2019"; is that correct?

17 A. Yes.

18 Q. Then it says "Previous holdback balance."
19 Do you see that?

20 A. Yes.

21 Q. And it seems to indicate a negative
22 \$22,750.14; is that correct?

23 A. Yes.

24 Q. What is your understanding of what that
25 number represents?

1 A. That there's been \$22,750.14 of missed
2 payments.

3 Q. If you go to the "Current Missed
4 Payments" -- do you see that?

5 A. Yes.

6 Q. -- it says there's \$1,114.33; is that
7 correct?

8 A. Yes.

9 Q. Is it your understanding that that's the
10 number -- total number of missed payments that were
11 due during the month of March of 2019 that were not
12 paid by your client to BK Billing?

13 A. I don't know what that number means.

14 Q. Okay. Do you see current month
15 chargebacks?

16 A. Yes.

17 Q. It says it's a negative \$1,511.67?

18 A. Yes.

19 Q. What is your understanding of what that
20 number is, if you have one?

21 A. It looks like those were the current month
22 missed payments, but I'm not sure.

23 Q. It says "New holdback balance." And it's
24 a negative \$23,147.48. Do you see that?

25 A. Correct.

1 Q. And advanced was \$1,631.25?

2 A. Yes.

3 Q. The total amount of payments by Ms. James
4 was expected to be \$2,175?

5 A. Yes.

6 Q. And Ms. James appears to have made all of
7 those payments; is that correct?

8 A. Yes.

9 Q. So of the three of the four clients we are
10 here on today, only Mr. Babiker did not make all of
11 his payments?

12 A. It appears that way.

13 Q. Do you have any other evidence that you're
14 aware of to the contrary?

15 A. No.

16 Q. Prior to entering into a relationship or
17 about the time you entered into a relationship with
18 BK Billing, did you engage in the United States
19 Trustee's office in some conversations about whether
20 or not bifurcation would be acceptable to our
21 office?

22 A. Yes.

23 Q. Who do you recall speaking with at the
24 United States --

25 A. Ms. Wattenbarger.

1 (J. Amerine Exhibit No. 4 was marked for
2 identification.)

3 **Q. (By Mr. Miller) I've marked as Exhibit 4**
4 **an e-mail.**

5 MR. MILLER: For the record, what I've
6 labeled as Exhibit 4 is an e-mail that we produced
7 in discovery. It's marked Castle UST 0161 through
8 0162.

9 **Q. (By Mr. Miller) Putting aside the fact**
10 **that this has some headers on it where**
11 **Ms. Wattenbarger forwarded it to me to produce to**
12 **your attorney, have you seen this document before?**

13 A. Yes.

14 **Q. And does this appear to be an accurate**
15 **reflection of your communications with**
16 **Ms. Wattenbarger?**

17 A. Yes.

18 **Q. It seems to indicate that on June 6 of**
19 **2017 you e-mailed Ms. Wattenbarger around 9:30 a.m.;**
20 **is that correct?**

21 A. Yes.

22 **Q. And you say:**

23 "Good morning, Sherri. Does your office
24 have any opinion one way or another on bifurcated
25 retainers for Chapter 7, assuming they are done

1 properly, i.e., full disclosure to debtor,
2 reasonableness at work, pre v post, et cetera."

3 And then you said:

4 "I see no case law in the circuit other
5 than In re Perez out of Nebraska that deals with a
6 reaffirmation of attorney fees. Thank you."

7 Do you see that?

8 A. Yes.

9 Q. And you authored that e-mail to
10 Ms. Wattenbarger?

11 A. Yes.

12 Q. And Ms. Wattenbarger replied the same day
13 it would appear?

14 A. Yes.

15 Q. And it says:

16 "Jason," comma, "Yes, we do not object so
17 long as they are done properly as you've described.
18 They should be in writing in the retainer agreement
19 and the bifurcation must be reasonable, meaning that
20 it must be a realistic apportionment of pre- and
21 postpetition services.

22 "Thank you, Sherri."

23 Do you see that?

24 A. Yes.

25 Q. Did you have an understanding of what

1 **Ms. Wattenbarger was communicating to you on June 6?**

2 MR. KOEHLER: Objection, calls for
3 speculation.

4 Go ahead and answer to the extent you
5 know.

6 A. Yes.

7 **Q. (By Mr. Miller) What was your**
8 **understanding of what Mr. Wattenbarger communicated**
9 **to you?**

10 A. That bifurcation was permitted by your
11 office, and there were certain procedures that had
12 to be complied with to make it, I guess, acceptable.

13 **Q. And what was your understanding of what**
14 **those procedures needed to be?**

15 A. That the fees that were charged for the
16 work done prefiling must be reasonable and that the
17 fees charged for the work done postpetition was to
18 be reasonable to those services. Debtor must be
19 informed as to what was going on.

20 **Q. So you had an understanding that the**
21 **bifurcation itself must be allocated to the**
22 **prepetition and postpetition services being**
23 **rendered?**

24 MR. KOEHLER: Objection, form and calls
25 for speculation.

1 Go ahead and answer.

2 Q. (By Mr. Miller) It seems to me that
3 you're confused by the question; so I'll try to
4 rephrase it for you.

5 A. Okay.

6 Q. So did you have an understanding that the
7 U.S. Trustee believed, based on Mrs. Wattenbarger's
8 e-mail, that the fee that was charged in a
9 bifurcation would be separately allocated to the
10 prepetition amounts and postpetition amounts?

11 MR. KOEHLER: Objection, form, foundation,
12 calls for speculation.

13 Go ahead and answer.

14 A. I knew that the work allocated prepetition
15 must be reasonable to the fee charged and vice-versa
16 with the post.

17 Q. (By Mr. Miller) Okay. Was this the
18 extent of your communications with the United States
19 Trustee's office of the Western District of Missouri
20 prior to completing any work on any bifurcated
21 BK Billing cases?

22 A. It seems like I would have replied to
23 this, but if you don't have anything, if we didn't
24 produce anything, then I guess so.

25 Q. Do you have any independent recollection

1 Q. Did you review that agreement before it
2 was implemented at Castle Law?

3 A. Yes.

4 Q. Talking about the postpetition agreement
5 now, would the same be true, was that drafted by
6 somebody outside of Castle Law?

7 A. Yes.

8 Q. And did you review that document before it
9 was used at Castle Law?

10 A. Yes.

11 Q. Do you recall if you made any changes to
12 either the pre- or postpetition agreement before it
13 was implemented?

14 A. I believe we changed some of the blanks
15 for numbers.

16 Q. Did you talk to your nonattorney staff
17 about implementing BK Billing before you took on
18 your first BK Billing client?

19 A. Yes.

20 Q. And do you recall what information you
21 provided to your nonattorney staff?

22 A. Written or oral?

23 Q. Let's start with oral.

24 A. Okay. I told everyone on the
25 BK Billing -- or -- I'm sorry -- the bankruptcy

1 staff how this had to be done to make it work for
2 the debtors, and that was based off of my
3 discussions with people outside of our district
4 because I knew it was being approved by the
5 U.S. Trustee and those places. So I took what
6 information was given to me and implemented it here.
7 We didn't have a road map here to follow; so I used
8 what was outside being approved.

9 **Q. Let's break that down just a little bit.**
10 **You mentioned that you believe that it was being**
11 **approved by other United States Trustees, and it was**
12 **being done in a certain manner; is that correct?**

13 A. It was being approved.

14 **Q. What jurisdictions do you believe that**
15 **bifurcation with BK Billing was being approved in?**

16 A. There's several. I mean the most recent
17 one is Utah. I mean that's the 10th Circuit; so
18 it's right next door.

19 **Q. Do you believe those bifurcations were**
20 **approved by the court or a United States Trustee or**
21 **some combination thereof?**

22 A. Combination.

23 **Q. At the time you implemented BK Billing,**
24 **what jurisdictions did you believe that it was**
25 **approved in?**

1 A. I don't remember all of them.

2 Q. Okay. Now, you said specifically that
3 there had -- that there was a way that it had to be
4 done to make it acceptable to you; is that correct?

5 A. Correct.

6 Q. Could you explain to me what that
7 particular manner or way of proceeding was?

8 A. Well, obviously the debtor had to be
9 informed of what we were doing. The work performed
10 had to be evenly distributed between what we were
11 charging prefiling versus what we were filing
12 postfiling; so in other words, if we were doing the
13 work prepetition, then we can't charge a lower
14 amount for postpetition because the work has already
15 been done; so we knew we had to do the bulk of the
16 work postpetition to make this work for the debtor.

17 Q. So in these cases the decision to do the
18 work postpetition was done based on the need to be
19 able to bifurcate the fee and the work in the
20 postpetition amounts?

21 A. The decision was made to make sure we
22 could help the debtors with this process.

23 Q. Did you implement specific procedures as
24 to exactly what work should be done prepetition and
25 postpetition in BK Billing cases?

1 A. The only work that was done prepetition
2 was the consultation and the shell.

3 **Q. Okay. What documents did you instruct**
4 **your staff to collect or -- before the shell was**
5 **completed and filed?**

6 A. As many of the documents that were on the
7 checklist.

8 **Q. Okay. Let's go back for a minute. Let's**
9 **discuss an initial consultation. What was your**
10 **understanding or expectation for an initial**
11 **consultation at Castle Law?**

12 A. So the attorney would meet with the
13 prospect at the consultation, decide if bankruptcy
14 was an option for the debtor. If it was, then we
15 would go into what options they had: Chapter 7,
16 Chapter 13. Once Chapter 7 was determined as the
17 best option, we would talk about fees, and if the
18 upfront fee option wasn't feasible for that
19 particular client, then at that time BK Billing was
20 presented as an alternate option.

21 **Q. Was it your expectation as to -- that an**
22 **attorney would do the initial consultation?**

23 A. Yes.

24 **Q. Were those typically done in person or by**
25 **telephone or some combination thereof?**

1 A. 90 percent of them were done in person.

2 Q. And in an initial consultation in person,
3 would there be an expectation that the client would
4 complete some information for Castle Law?

5 A. There's an intake sheet.

6 Q. What -- to the best of your recollection,
7 what was that intake sheet trying to capture?

8 A. Whether they should even be in our office
9 or not.

10 Q. Well, I'm talking specifically. I
11 understand generally why you would use an intake
12 sheet. What information specifically were you
13 capturing on the intake sheet?

14 A. Me personally, I can use the intake sheet
15 to determine everything that needs to happen with
16 the client. It has real estate, vehicle, values,
17 mortgage, income, expenses, debt.

18 Q. I understand from deposing your employees
19 that there was a more detailed packet or client
20 questionnaire that was then given to the client; is
21 that correct?

22 A. Yes.

23 Q. Would that be given at the initial
24 consultation to the client?

25 A. It would be given to them after they

1 decided to retain us.

2 **Q. What was your expectation about when that**
3 **document would be completed by the client?**

4 A. When they returned.

5 **Q. Would you file a BK Billing case without**
6 **that client questionnaire being completed by the**
7 **client?**

8 A. I don't know.

9 **Q. Was it your expectation that it would be**
10 **completed by the client before the shell was filed?**

11 A. My expectation was that all of the work
12 was to be done postpetition; so if it wasn't filled
13 out, then it was going to be filled out after the
14 shell.

15 **Q. Well, would you not have needed the**
16 **information to decide if the debtor qualified for a**
17 **Chapter 7?**

18 A. Not necessarily.

19 **Q. Would you have an expectation that your**
20 **attorneys would review pay statements prior to**
21 **filing the BK Billing shell?**

22 A. Not necessarily.

23 **Q. Wouldn't they need to determine what the**
24 **debtor's CMI would be to determine if they qualified**
25 **for a Chapter 7?**

1 **What would be -- in a BK Billing case,**
2 **after the initial consultation, what would be the**
3 **next step by Castle Law?**

4 A. The next step would be they would come in
5 for the shell.

6 **Q. Okay.**

7 A. Sarah would make sure we have whatever
8 documents they brought in, may or may not have all
9 of them. If the bulk of them were there, then they
10 meet with the attorney. They file the shell, the
11 shell petition. The case is filed, and then they
12 would go back at some and meet with Sarah either
13 that day or a different day. I don't always know
14 what day she met with them. It was never before the
15 shell, I know that, but I don't know if it was the
16 same day.

17 **Q. Okay. How would it be determined what**
18 **attorney would meet with them at the shell?**

19 A. It was just whoever was available.

20 **Q. What does a shell mean to you? What does**
21 **the term shell mean to you as we're using it here**
22 **today?**

23 A. It's just the bare bones petition. No
24 schedules.

25 **Q. So we're talking about the petition, the**

1 **matrix. What other documents would you include in a**
2 **shell filing?**

3 A. I believe the social security verification
4 page, and with the BK Billing we're -- at some
5 point -- I don't know if we did in these cases -- we
6 were filing a disclosure of compensation.

7 **Q. So the client would come in. Who would**
8 **prepare that shell for the client's review?**

9 A. When they came in when? For the actual
10 shell?

11 **Q. So there would be a shell appointment,**
12 **correct?**

13 A. Yes.

14 **Q. What was the purpose of the shell**
15 **appointment?**

16 A. To sign the petition.

17 **Q. Who would have prepared the petition that**
18 **they would be signing?**

19 A. It would have been prepared at the
20 consultation; so it would have been printed for
21 signature at the shell signing.

22 **Q. Okay. So the attorney who did the initial**
23 **consultation would prepare the petition?**

24 A. Correct.

25 **Q. And that would typically be done while the**

1 client was in the office at the initial
2 consultation?

3 A. Yes.

4 Q. And that was based on the information that
5 was provided to you, the attorney, during the
6 initial consultation?

7 A. Correct.

8 Q. And then it would just be printed at
9 the -- for the signing?

10 A. The shell signing.

11 Q. Why would there need to be a delay, then?
12 If the petition was prepared at the initial
13 consultation, why wouldn't you just have the client
14 sign it and file it right then?

15 A. Because we need documents.

16 Q. Maybe I'm just a little confused. You
17 testified earlier that you thought you could get all
18 of the information from the initial consultation
19 sheet in most of your cases; is that correct?

20 A. That's to determine whether or not they
21 need our services or not.

22 Q. Okay.

23 A. Yeah.

24 Q. Okay. But not necessarily whether or not
25 they qualify for it or shouldn't be filing a

1 **particular chapter of bankruptcy?**

2 A. I can generally determine if they qualify
3 based on the intake sheet.

4 **Q. Okay.**

5 A. I mean the purpose of the second
6 appointment was to get the packet, the thicker
7 packet filled out -- tax returns, bank statements,
8 the pay stubs -- but the actual going through all of
9 that was not done until after the shell. It was
10 gathered up, but whether or not we were missing a
11 pay stub or bank statement was not done until after
12 the shell.

13 **Q. Okay. I understand that. Would the**
14 **attorney who was present at the signing of the**
15 **shell, would they review those documents with the**
16 **client prior to signing the petition?**

17 A. No.

18 **Q. So all you were trying to do was to verify**
19 **the client had the documents with them?**

20 A. Yes.

21 **Q. Why would you need to know if the client**
22 **had the documents with them before you actually**
23 **filed the case if you weren't reviewing the**
24 **documents?**

25 A. So we could get it processed after the

1 shell was filed.

2 Q. Let's look at some specific case examples
3 of these specific four cases.

4 (J. Amerine Exhibit No. 5 was marked for
5 identification.)

6 Q. (By Mr. Miller) I think you testified a
7 few moments ago you don't recall ever meeting with
8 Ms. James; is that correct?

9 A. I don't recall meeting with any of these
10 people.

11 Q. Okay. I'm handing you what has been
12 marked as Exhibit 5.

13 MR. MILLER: And I'll represent for the
14 record that this is a document titled "Best Case
15 Bankruptcy Case Notes" for Rosa James.

16 Q. (By Mr. Miller) Do you see that?

17 A. Yes.

18 Q. Are you familiar with Best Case?

19 A. Yes.

20 Q. What is Best Case used for at your firm?

21 A. It's for the bankruptcy management.

22 Q. So would it be software that is basically
23 for case management?

24 A. Correct.

25 Q. And there is a place in Best Case to keep

1 A. The pre- and postclasses, and the
2 credit -- I'm sorry -- the credit report.

3 **Q. So Castle Law would advance the costs of**
4 **the pre- and postpetition credit counseling?**

5 A. I don't know if we advanced the cost, but
6 it was included in the cost.

7 **Q. Let me phrase it differently. Maybe**
8 **"advance" was an inartful term. Counsel would pay**
9 **those expenses and then would seek reimbursement**
10 **from the client?**

11 A. The debtor would pay us, and then we would
12 pay.

13 **Q. So you would pay -- Castle Law would pay**
14 **those expenses directly, not the debtor?**

15 A. Yes.

16 MR. KOEHLER: Make sure when he's done
17 take a breath, then answer.

18 THE WITNESS: Okay.

19 **Q. (By Mr. Miller) And then there would be a**
20 **credit report fee, correct?**

21 A. Yes.

22 **Q. Did that -- what we've been calling it --**
23 **and maybe this term is inartful too -- standard fee**
24 **or general fee that Castle Law charged, did that**
25 **change in July of 2017?**

1 A. The fee changed in '17. I don't recall
2 exactly when. It was sometime in the spring.

3 **Q. Okay. And what did the fee change to?**

4 A. I believe it was 1,810.

5 **Q. Okay. Did you charge a different amount**
6 **for BK Billing clients?**

7 A. Yes.

8 **Q. And what was the rationale for charging a**
9 **different amount for the BK Billing clients?**

10 A. We always charge more for shells whether
11 they're Chapter 13s or Chapter 7s. And so it's more
12 work, and I knew BK Billing cases were going to be
13 the same amount of work as a normal shell; so I
14 charged about the same amount more for those than I
15 did for 13s.

16 **Q. Okay. Why would it be more work to do a**
17 **shell?**

18 A. Because usually there's an extra
19 appointment. There's usually a scrambling of
20 dropping everything we're doing to clear calendars
21 for deadlines that we typically don't have on a
22 regular Chapter 7 or Chapter 13. We almost always
23 have to add creditors postpetition. They're just
24 more work.

25 **Q. Would you file Chapter 7 shells outside of**

1 **BK Billing?**

2 A. Yes.

3 **Q. How many of those would you typically file**
4 **in a year?**

5 A. Several. I don't know. It's not as
6 common as a Chapter 13.

7 **Q. And would you charge more for those**
8 **Chapter 7 shells?**

9 A. Yes.

10 **Q. Would you charge the same amount as you**
11 **were charging your BK Billing clients for a**
12 **Chapter 7 shell that didn't involve BK Billing?**

13 A. Possibly.

14 **Q. When you say "possibly," you just don't**
15 **know, or do you think that's what you would normally**
16 **do?**

17 A. I would charge about the same as a
18 BK Billing for a non-BK Billing shell. It's based
19 off of my experience doing extra work, and it's
20 usually two to three hours' more work, if not more,
21 than that, and the debtors are typically a lot more
22 complicated to deal with.

23 **Q. When you say they are "more complicated to**
24 **deal with," what do you mean by that?**

25 A. There's a lot more chasing down of papers

1 and missed 341 meetings and --

2 **Q. When you did a BK Billing case, it was**
3 **your -- you knew up front that you were not going to**
4 **get the full amount of the fee, correct?**

5 MR. KOEHLER: Objection, form and calls
6 for speculation.

7 Go ahead and answer it.

8 MR. MILLER: I'll rephrase it. I can ask
9 that question better than I did.

10 **Q. (By Mr. Miller) When you filed a**
11 **BK Billing case, you understood that the full amount**
12 **of the fee that the client was signing up for would**
13 **not all be paid to Castle Law, BK Billing would**
14 **retain some of that when it was filed, correct?**

15 MR. KOEHLER: Objection, form, assumes
16 facts not in evidence.

17 Go ahead and answer.

18 A. I knew we were selling the receivable at a
19 discount.

20 **Q. (By Mr. Miller) So you knew the amount**
21 **that Castle Law would retain of the total amount of**
22 **the contract would be less than its face value?**

23 MR. KOEHLER: Yeah, go ahead and answer.

24 A. Yes, yes.

25 **Q. (By Mr. Miller) Did you factor in how**

1 much BK Billing would retain into setting your
2 prices in BK Billing cases?

3 A. No.

4 Q. Let's continue with the James case notes.
5 So on February 14 of 2017 there's a note. Do you
6 see that? It says "Client called and paid \$50."

7 A. Yes.

8 Q. And then if you go down on 5/2 of 2017
9 there's a second note. It says "DM. CL paid CC
10 payment of \$50." Do you see that?

11 A. Yes.

12 Q. So the debtor paid another \$50 on May 2;
13 is that correct?

14 A. Yes.

15 Q. Okay. And then on 5/25, it says "KEA.
16 Client called in a payment of \$25"; is that correct?

17 A. Yes.

18 Q. Then there's a note on 6/26 of 2017. It
19 says "SC. Called client to follow up on payment and
20 discuss BK Billing." Do you see that?

21 A. Yes.

22 Q. "BK Billing call set for June 28, 2017
23 with PRP." Do you see that?

24 A. Yes.

25 Q. What was your understanding of the

1 **June 26, 2017, note?**

2 A. When we first started doing BK Billing, a
3 lot of the cases, specifically like three of the
4 four that you chose to pursue, were under a pay
5 upfront retainer; and these particular debtors could
6 not pay the fees either at all or in a timely
7 manner; so we were presenting another option for
8 them to get the relief they wanted. So this was a
9 phone call that was going to be set up between the
10 debtor and an attorney to discuss the two-contract
11 option.

12 Q. Okay. And it looks like that that phone
13 call did not -- or that phone conversation never
14 happened, but that Ms. Putnam e-mailed the client
15 with BK Billing info. Do you see that on 6/28?

16 A. Yes.

17 Q. Okay. And this note specifically refers
18 to financing. Do you see that?

19 A. Yes.

20 Q. Did you ever personally discuss with
21 clients the BK Billing option? I'm assuming that
22 answer to that question is yes?

23 A. Yes.

24 Q. Did you personally have discussions with
25 clients about using BK Billing services?

1 A. Yes.

2 Q. What would you typically communicate to
3 them about BK Billing services?

4 A. So I always pushed the option of pay up
5 front. That was always Plan A. When that option
6 was not available, then I would discuss BK Billing
7 as -- or the two-contract system as an option. And
8 I explained to them you know -- I don't know how
9 much detail you want here.

10 Q. Well, keep going. You're still answering
11 my question, so --

12 A. I just told them what the process was to
13 do it under the two-contract system.

14 Q. When you explained how the payments would
15 be made postpetition, how would you explain how that
16 payment system would work to them?

17 A. I would just tell them that they have a
18 choice as to how to pay it, when to pay it, and it
19 would be debited off their card.

20 Q. Did any of those clients, to the best of
21 your recollection, question whether or not this was
22 a loan?

23 A. No.

24 Q. Did you view this as a loan?

25 A. No.

1 **Q. Well, somebody was extending credit to**
2 **these clients with an expectation of payment; is**
3 **that correct?**

4 MR. KOEHLER: Objection, foundation, form,
5 assumes facts not in evidence, calls for a legal
6 conclusion.

7 Go ahead and answer.

8 A. The agreement was the debtor would make a
9 payment to a certain dollar amount, and then whether
10 or not they paid me or if I sold the account
11 receivable was irrelevant to the debtor.

12 **Q. (By Mr. Miller) I understand that. I**
13 **don't disagree with that. But if you were -- you**
14 **were rendering services with the expectation that**
15 **you were going to get paid; is that correct?**

16 A. I do that every day.

17 **Q. I understand that. But the expectation**
18 **was that the client was going to repay these**
19 **amounts; is that correct? Or pay these amounts to**
20 **you; is that correct?**

21 A. It was hopeful. What you don't understand
22 is the debtors appreciated this more than anything
23 else that could ever be offered to them; so there
24 was no chance they looked at it as a loan. They
25 were so happy they could get relief.

1 filed by Castle Law later, and then did not retain
2 Castle Law to complete the schedules?

3 A. No.

4 Q. Are you aware of any clients of Castle Law
5 who signed an attorney-client retainer agreement in
6 a BK Billing case with Castle Law and then hired
7 another law firm to file its case?

8 A. No.

9 Q. Is it true that you would have a
10 discussion with the clients about what work needed
11 to be done postpetition in their case before the
12 case was filed?

13 A. Yes.

14 Q. Is it true that you would have discussed
15 with them what the fee postpetition would be?

16 A. Yes.

17 Q. Would you have told them what their
18 payments under the BK Billing arrangement would be
19 postpetition before the case was filed?

20 A. Yes.

21 Q. The next sentence in the agreement says
22 "However, Castle Law reserves the right to seek to
23 withdraw from my representation in the event I do
24 not sign a second retainer." Do you see that?

25 A. Yes.

1 **responsibilities agreement with respect to**
2 **Ms. James?**

3 MR. KOEHLER: Objection, form, calls for
4 conclusion.

5 Go ahead and answer.

6 MR. MILLER: I asked him if he entered
7 into an agreement with.

8 MR. KOEHLER: It's the difference between
9 signing a document and entering into an agreement.
10 Same objection.

11 Go ahead and answer.

12 A. I don't know.

13 **Q. (By Mr. Miller) Was it Castle Law's**
14 **practice in July of 2017 to enter into the rights**
15 **and responsibilities agreement in every Chapter 7**
16 **case filed in the Western District of Missouri?**

17 A. Ask it again, please.

18 **Q. Was it Castle Law's policy to enter into**
19 **the rights and responsibilities agreement for every**
20 **Chapter 7 case filed in the Western District of**
21 **Missouri in July of 2017?**

22 MR. KOEHLER: Objection, vague as to what
23 "policy" means.

24 Go ahead and answer.

25 A. Yes.

1 **responsibilities agreement that was filed in the**
2 **Rosa Nichole Renee James bankruptcy case?**

3 A. It looks like it.

4 Q. Do you see on page 3 of that document a
5 **title heading that's Roman numeral IV?**

6 A. Yes.

7 Q. And it's titled "After the case is filed,
8 **your attorney agrees to provide all services**
9 **necessary for representation, including, but not**
10 **limited to," 19 different requirements?**

11 MR. KOEHLER: Objection, form, legal
12 conclusion.

13 Go ahead and answer.

14 A. Yes.

15 Q. **(By Mr. Miller) And after signing this**
16 **agreement, this agreement would have obligated your**
17 **firm to attend Ms. James' 341 meetings, correct?**

18 MR. KOEHLER: Objection, form, calls for a
19 legal conclusion.

20 Go ahead and answer.

21 A. Not necessarily.

22 Q. **(By Mr. Miller) Under what conditions,**
23 **based on your understanding of this agreement, would**
24 **you not be required to attend Ms. James' 341?**

25 MR. KOEHLER: Objection, form, calls for

1 legal conclusions.

2 Go ahead and answer.

3 A. I believe this document creates an
4 ambiguity between my agreement with my client.

5 **Q. (By Mr. Miller) Would you look at**
6 **paragraph 3 of Part 4 of this agreement? Do you see**
7 **that?**

8 A. Yes.

9 **Q. Could you read that?**

10 A. "Attend the 341 meetings and any court
11 hearings either personally or through another
12 attorney from his or her firm or through an
13 appearance attorney who has been adequately briefed
14 on this case."

15 **Q. Would you turn to the last page of this**
16 **agreement? This document was signed on July 25 of**
17 **2017; is that correct?**

18 A. Yes.

19 **Q. And it was signed by Ms. James; is that**
20 **correct?**

21 A. Yes.

22 **Q. And then your name appears on this**
23 **document; is that correct?**

24 A. Yes.

25 **Q. Did you personally sign this document?**

1 MR. KOEHLER: Objection, form, legal
2 conclusion.

3 Go ahead and answer.

4 A. No.

5 Q. (By Mr. Miller) Why do you think that's
6 not -- why would you not agree that that's
7 inconsistent?

8 A. Because I don't.

9 Q. Do you have a basis for believing that --

10 A. I think there's a discrepancy between the
11 language in the rights and responsibilities and the
12 contract that I enter in with my client.

13 Q. Which one of those do you think would
14 control your relationship with Ms. James on July 25
15 of 2017?

16 MR. KOEHLER: Objection, form, legal
17 conclusion.

18 Go ahead and answer.

19 A. I don't know.

20 Q. (By Mr. Miller) Just sitting here -- I
21 just want to make sure I understand this. Sitting
22 here today as Ms. James' lawyer, you don't know
23 whether the agreement you signed on July 6 of 2017
24 or the rights and responsibilities agreement on
25 July 25 of 2017 would have controlled your

1 **attorney-client relationship with Ms. James?**

2 MR. KOEHLER: Same objection.

3 Go ahead and answer.

4 A. My agreement was with my client, and that
5 was the agreement that we understood.

6 **Q. (By Mr. Miller) Did you have any**
7 **procedures or policies in place with your attorneys**
8 **at Castle Law to explain the rights and**
9 **responsibilities agreement to clients of Castle Law?**

10 A. My understanding is that they are given a
11 copy of the rights and responsibilities, and they
12 went home with it, and brought it back. I don't
13 know what the other attorneys said to them.

14 **Q. When you met with clients, would you**
15 **explain the rights and responsibilities agreement to**
16 **them?**

17 A. Yes.

18 **Q. Would you generally provide them advice as**
19 **to whether or not this agreement -- when I say "this**
20 **agreement" -- let's strike that.**

21 **Would you generally provide advice to your**
22 **clients about whether the rights and**
23 **responsibilities agreement was consistent with your**
24 **own fee agreement with your clients?**

25 MR. KOEHLER: Objection, form, calls for

1 would be accurate.

2 (J. Amerine Exhibit No. 13 was marked for
3 identification.)

4 **Q. (By Mr. Miller) I'm handing you a**
5 **document that's been marked 13 in the 323 in the**
6 **defendants' production. Have you seen this document**
7 **before?**

8 A. Yes.

9 **Q. What is your understanding of this**
10 **document?**

11 A. It's a disclosure of compensation.

12 **Q. What is your understanding of what the**
13 **purpose of disclosure of compensation is?**

14 MR. KOEHLER: Objection, form, legal
15 conclusion.

16 Go ahead and answer.

17 A. To notify the court as to what fees have
18 been agreed to and what has been paid.

19 **Q. (By Mr. Miller) Does this appear to be**
20 **the disclosure of compensation for the Rosa Nichole**
21 **Renee James case?**

22 A. It's a disclosure of compensation.

23 **Q. Well, does this appear to be the initial**
24 **disclosure of compensation?**

25 A. I believe so. I'm not sure.

1 **Q. It's dated July 25 of 2017; is that**
2 **correct?**

3 A. Yes.

4 **Q. That's the same date that appears on the**
5 **declaration of your electronic filing; is that**
6 **correct?**

7 A. Yes.

8 **Q. Do you have any reason to believe that**
9 **this document was filed with the court on a date**
10 **other than July 25 of 2017?**

11 A. I don't know. There were a couple of
12 amended ones that were filed; so I mean if it was
13 dated the 25th, I presume it was filed the same day
14 as the shell.

15 **Q. This document contains a representation of**
16 **your signature; is that correct?**

17 A. Yes.

18 **Q. It doesn't contain your actual signature,**
19 **does it?**

20 A. No.

21 **Q. Do you have any recollection of reviewing**
22 **this document before it was filed with the court?**

23 A. I reviewed these documents before they
24 were filed. My recollection for -- as to that
25 specific date, I don't know, but I reviewed this.

1 **Q. Would you have reviewed the disclosure of**
2 **compensation filed in all bankruptcy cases before**
3 **they were filed?**

4 A. On BK Billings I would.

5 **Q. Who would have completed the disclosure of**
6 **compensation form?**

7 A. Me.

8 **Q. So you drafted this disclosure of**
9 **compensation?**

10 A. Yes.

11 **Q. Do you believe as we sit here today, do**
12 **you believe this disclosure of compensation form was**
13 **accurate?**

14 A. No.

15 **Q. To the best of your knowledge, why was it**
16 **inaccurate?**

17 A. I mistakenly put the fees that I thought
18 we were getting as the firm, not the total amount
19 that we had agreed to with the debtor; and once I
20 learned that that was probably best practice, I went
21 back and amended it.

22 **Q. Let's look at this particular disclosure.**
23 **There's a line 1. Do you see that?**

24 A. Yes.

25 **Q. It has some language, and it says "For**

1 goes towards services.

2 Q. Okay. Let's look at line 2 of this
3 disclosure of compensation.

4 A. Okay.

5 Q. You said \$335 of the filing fee has been
6 paid. Do you see that?

7 A. Yes.

8 Q. Was that true at the time this statement
9 had been filed?

10 A. Yes.

11 Q. Why do you believe that statement is true?

12 A. Because the filing fee had been paid.

13 Q. Has been paid to the court or to you?

14 A. It doesn't distinguish.

15 Q. What's your understanding of what that
16 disclosure is seeking you to disclose?

17 MR. KOEHLER: Objection, form, calls for
18 legal conclusion.

19 Go ahead and answer.

20 A. That the filing fee has been paid.

21 Q. (By Mr. Miller) To whom?

22 MR. KOEHLER: Objection, form, calls for
23 legal conclusion, and the document speaks for
24 itself.

25 Go ahead and answer.

1 A. To the court.

2 Q. (By Mr. Miller) Ms. James had not at the
3 time that this document was filed paid the full
4 filing fee to your office; is that correct?

5 A. Correct.

6 Q. Line 3, you said, "The source of the
7 compensation paid to me was the debtor"; is that
8 correct?

9 A. Yes.

10 Q. The debtor had not -- it's your
11 contention, as I understand, the debtor had not paid
12 you any compensation as of July 25 of 2017; is that
13 correct?

14 MR. KOEHLER: Objection, form, assumes
15 facts not in evidence.

16 Go ahead and answer.

17 A. Correct.

18 Q. (By Mr. Miller) On line 4 you said, "The
19 source of the compensation to be paid to me is" --
20 and you selected "debtor"; is that correct?

21 A. Yes.

22 Q. Do you have an understanding of whether
23 that was correct at the time you made that
24 statement?

25 A. Yes, it was correct.

1 established that's a payment authorization Ms. James
2 signed; is that correct?

3 A. Yes.

4 Q. And it's dated July 6; is that correct?

5 A. Yes.

6 Q. And that would be before July 25, correct?

7 A. Yes.

8 Q. Okay. And that authorized BK Billing to
9 withdraw a sum of money from her account in
10 consideration of paying her legal fees in this case;
11 is that correct?

12 MR. KOEHLER: Objection, form, calls for a
13 legal conclusion, assumes facts not in evidence.

14 Go ahead and answer.

15 A. Not necessarily.

16 Q. (By Mr. Miller) Isn't it true on July 25
17 of 2017, that you and Ms. James had already agreed
18 that you were going to factor her account with
19 BK Billing?

20 MR. KOEHLER: By which date?

21 MR. MILLER: July 25 of 2017. I'll re-ask
22 it so you can object if you want.

23 Q. (By Mr. Miller) Isn't it true that by
24 July 25 of 2017, Castle Law and Ms. James had an
25 understanding that her fees would be factored

1 **through BK Billing?**

2 MR. KOEHLER: Objection, form, calls for a
3 legal conclusion, assumes facts not in evidence --
4 fees being owed.

5 Go ahead and answer.

6 A. No. Fees are not factored to BK Billing.
7 My accounts receivable is factored to BK Billing.

8 **Q. (By Mr. Miller) Isn't it true that by**
9 **July 25 of 2017, Castle Law and Ms. James had an**
10 **understanding that she would be paying any fees that**
11 **she would owe to your law firm to BK Billing?**

12 MR. KOEHLER: Objection, form, calls for
13 legal conclusion, assumes facts not in evidence.

14 A. No.

15 **Q. (By Mr. Miller) When you filed the**
16 **statement on July 25 of 2017, did Castle Law have an**
17 **expectation of how it was going to be paid for its**
18 **services in this case?**

19 A. I just need to clarify the file date is
20 the 25th of July?

21 **Q. I'm sorry if I misspoke.**

22 MR. KOEHLER: I think the case was filed
23 on July 25, 2017, yes.

24 A. Okay. Can you ask the question again,
25 please?

1 **Q. (By Mr. Miller) I said when the case was**
2 **filed on July 25 of 2017, when this disclosure of**
3 **foundation was filed, did Castle Law have an**
4 **expectation of how its fees were going to be paid?**

5 MR. KOEHLER: Objection, asked and
6 answered. Go ahead and explain again.

7 A. I'm not sure.

8 **Q. (By Mr. Miller) You're the person who**
9 **completed this disclosure; is that correct?**

10 A. Yes.

11 **Q. But it's your testimony you are not sure**
12 **how the firm was going to be paid for this case on**
13 **July 25 of 2017?**

14 MR. KOEHLER: Objection, asked and
15 answered.

16 Answer again.

17 A. We didn't know if it was going to be paid
18 through her payments to be BK Billing or paid by
19 her, by the debtor.

20 (J. Amerine Exhibit No. 14 was marked for
21 identification.)

22 **Q. (By Mr. Miller) I have one more question.**
23 **Turn back to Exhibit 10. Your firm would have given**
24 **this document to Ms. James; is that correct?**

25 A. Yes.

1 says "I agree to pay and Castle Law Office agrees to
2 accept \$2,400" was preprinted but was crossed out,
3 and \$2,175 was written in in attorney fees. Do you
4 see that?

5 A. Yes.

6 Q. What is your understanding of the purpose
7 of that agreement?

8 MR. KOEHLER: Objection, form, calls for
9 legal conclusion.

10 Go ahead and answer.

11 And the document speaks for itself.

12 A. We would provide postpetition legal
13 services for 2,175.

14 Q. (By Mr. Miller) Okay. Was it your
15 understanding as to -- let me strike that.

16 Did you have an understanding as to the
17 amount of fees that Castle Law would receive for the
18 prepetition work done in this case?

19 A. I'm not sure.

20 Q. Well, isn't it true that the 2,175 amount
21 when added to what Ms. James paid on the invoice
22 equals the \$2,400?

23 A. Yes.

24 Q. Okay. Did Castle Law charge Ms. James for
25 its prepetition services on this case?

1 A. No.

2 Q. And why did Castle Law not charge
3 Ms. James for its prepetition services in this case?

4 A. That was our agreement.

5 Q. So the total fees that Castle Law was
6 expecting to receive under this agreement was
7 \$2,175?

8 A. No.

9 Q. Okay. Can you explain why that's not
10 true?

11 A. Because the 2,175 had some expense in it.

12 Q. But the document itself says it was for
13 attorney fees; is that correct?

14 A. Yes.

15 Q. So it's your testimony that that was not
16 your understanding of what the \$2,175 was for?

17 A. It was not my understanding?

18 Q. Well, let me re-ask it. The document says
19 that \$2,175 was for attorney fees; is that correct?

20 A. Correct.

21 Q. But it's your testimony the \$2,175
22 included expenses?

23 A. Correct.

24 Q. Did you have that discussion or anyone at
25 Castle Law have that discussion with Ms. James?

1 fee between Castle Law and the debtor.

2 Q. (By Mr. Miller) Okay. At the time that
3 this agreement was entered into on July 27 of 2017,
4 did Castle Law have any expectation that this
5 agreement would be factored with BK Billing?

6 A. The 27th probably, yes.

7 Q. When was the decision made to factor this
8 with BK Billing?

9 A. I don't know.

10 Q. Did you have any clients that you used
11 these -- this particular form of agreement with
12 whose case was not factored with BK Billing and
13 Castle Law collected the payments?

14 A. I don't recall.

15 Q. Had Castle Law already begun to render
16 postpetition services to Ms. James before the entry
17 of this agreement?

18 A. No.

19 Q. So no work was done postpetition on
20 Ms. James' file before this agreement was executed?

21 A. Not that I'm aware of.

22 Q. Do you have any idea when Ms. James'
23 schedules were prepared?

24 A. Do not.

25 MR. KOEHLER: Are you going to another

1 **before or after?**

2 A. No.

3 Q. Let's review this document for a minute.
4 This document shows that -- well, let me step back
5 for a second. Did you sign this document?

6 A. Yes. Well, I signed it with my stamp.

7 Q. Okay. Do you have a recollection of
8 personally reviewing this document before it was
9 filed with the court?

10 A. Yes.

11 Q. Did you complete this document personally?

12 A. I don't understand the question.

13 Q. Were you the person who filled out this
14 document?

15 A. Yes.

16 Q. Okay. It shows on line 1 "For legal
17 services, I have agreed to accept \$2,000"; is that
18 correct?

19 A. Yes.

20 Q. And that is a change from the initial
21 disclosure; is that correct?

22 A. Yes.

23 Q. And why was that change made to the best
24 of your knowledge?

25 A. At the time I believe the initial

1 disclosure didn't include the entire contract
2 amount. It just had what, I believed, was going to
3 Castle Law, and I subsequently amended it to add in
4 the entire amount.

5 Q. Okay. Let's go back to that initial
6 disclosure, which is -- I didn't write the exhibit
7 number on it. What is it?

8 A. 13.

9 Q. Exhibit 13. You testified, I think, just
10 before we took our break, that there was no
11 agreement at this point to factor the accounts with
12 BK Billing; is that correct?

13 A. I believe I said I didn't know.

14 Q. Well, you testified you completed this
15 disclosure that's Exhibit 13; is that correct?

16 A. Yes.

17 Q. And you testified you were at \$1,455
18 because that was the amount that Castle Law was
19 expected to receive; is that correct?

20 A. I believe so.

21 Q. Was somebody else expected to receive some
22 funds from Ms. James at that time?

23 A. No.

24 Q. Then why would you not have put the entire
25 amount of the contract on that fee, on that line?

1 A. This --

2 MR. KOEHLER: Objection, form,
3 argumentative.

4 Go ahead, answer.

5 A. This was new; so I did my best, and if
6 there was a mistake, it was inadvertent. And I went
7 to try to fix it as quickly as I realized it was a
8 mistake. I don't know what to tell you.

9 **Q. (By Mr. Miller) On line 5 of Exhibit 13,**
10 **you put "I have not agreed to share the**
11 **above-disclosed compensation with any other person**
12 **unless they are members or associates in my law**
13 **firm"; is that correct?**

14 A. Yes.

15 **Q. Was that a true statement on July 25 of**
16 **2017?**

17 A. Yes.

18 **Q. Well, again, you listed only part of the**
19 **fee to be paid by Ms. James; is that correct?**

20 A. I don't remember what I did there. I just
21 know it was an error.

22 **Q. Okay. If you turn to what I've just**
23 **marked now as the amended compensation form, which**
24 **is Exhibit 16. This document was dated August 28 of**
25 **2017; is that correct?**

1 A. Yes.

2 Q. And it shows that an invoice was submitted
3 to BK Billing on or about July 27 of 2017?

4 A. Yes.

5 Q. And that amount invoiced was \$2,200; is
6 that correct?

7 A. Yes.

8 Q. And it's the same amount of Mr. Babiker's
9 postpetition contract; is that correct?

10 A. Yes.

11 Q. And that the total amount that could
12 possibly be advanced to Castle Law was \$1,650; is
13 that correct?

14 A. Yes.

15 Q. And on July 30 of 2017 an advance was made
16 to your firm by BK Billing of \$1,320; is that
17 correct?

18 A. I believe it was July 31.

19 Q. I'm sorry. On July 31 of 2017 there was
20 an advance of \$1,320; is that correct?

21 A. Yes.

22 Q. And \$330 was placed in the holdback or
23 escrow account?

24 A. Yes.

25 Q. By the way, have you ever received any of

1 the monies in any of these cases that was placed in
2 the holdback or escrow accounts?

3 A. No.

4 Q. Is that because other clients are
5 delinquent and you accept payment in an amount that
6 exceeds the holdback or escrow account that your
7 firm has on file with BK Billing?

8 A. Yes.

9 Q. I understand that BK Billing is ceasing
10 operations with you. Are you aware of that?

11 A. We got an e-mail from a third party saying
12 something about it, but I have not received any
13 direct communication.

14 Q. Have you had any discussions with
15 BK Billing about how the cases that are currently
16 being factored with BK Billing will be handled going
17 forward?

18 A. No.

19 Q. Have you stopped factoring cases with
20 BK Billing?

21 A. Yes.

22 Q. When did that occur?

23 A. When we had our hearing and I couldn't get
24 paid.

25 Q. And that's the hearing in the four cases

1 that we've objected that aren't the four cases that
2 we're here on today?

3 A. Correct.

4 Q. So since the time that Judge Norton
5 entered the -- I'll call it a "stay order" for lack
6 of a better word -- you have not factored any
7 additional accounts in the Western District of
8 Missouri with BK Billing?

9 A. Correct.

10 Q. I'll hand you a document I'll mark as
11 Exhibit 60.

12 (J. Amerine Exhibit No. 60 was marked for
13 identification.)

14 Q. (By Mr. Miller) Have you seen this
15 document before?

16 A. I've seen a document like that.

17 Q. For the record I didn't identify it. It's
18 Bates-stamped 1802 through 1803; is that correct?

19 A. Yes.

20 Q. Does this appear to be the Schedule J for
21 Mr. Babiker's case?

22 A. Yes.

23 Q. If you turn to page 2 of this document, is
24 there any disclosure of any payments to be made to
25 your firm or to BK Billing on this document?